

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06 -MSRC- 032**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

vs.

**FINAL ORDER
FOR ALVIN NOBLE**

HAROLD DAVID MOSLEY,
JEFFERY McGUIRE & **ALVIN NOBLE**

RESPONDENTS

This matter having come before the Mine Safety Review Commission (Commission) on the Motion for Default Judgment by the Complainant, Office of Mine Safety and Licensing (OMSL) and having no Answer or other Motion or responsive pleading filed by Respondent **Alvin Noble** in regard to the Complaint, served upon Respondent on September 19, 2006, and having no responsive pleading in regard to the Motion for Default Judgment and the members of the Commission having reviewed the Motion for Default Judgment filed on October 5, 2006 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Motion for Default Judgment is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The notice of hearing is sufficient pursuant to KRS 13B.050(2). The Certified Mail Domestic Return Receipt (green card) for the Notice of Hearing was returned signed after delivery of the pleadings to Noble.

4. The Commission Orders and incorporates the statement of the Parties, Jurisdiction , Cause of Action and disciplinary measures as provided in the Complaint as follows as a material part of this **FINAL ORDER**:

(1) Noble's underground mine foreman's certificate (# A-167-84) and surface mine foreman certificate shall be **suspended** for a period of **two (2) years**;

(2) Noble's assistant mine foreman, first aid, gas detection, drill operator, electrical worker, shot firer-conventional, shot firer solid blasting, and MET certificates shall each be **suspended** for a period of **one (1) year**;

(3) Noble's underground miner's certificate shall be **probated** for a period of **two (2) years**;


(4) that during this period of probation, that Noble shall comply will all state and federal mine safety laws and regulations, and that the violation of any of said laws or regulations may result in OMSL filing a motion with the Commission to **revoke** his certificates for the remainder of the probationary period;

(5) Noble shall take **eight (8) hours** of special **safety training** from OMSL **within 45 days** of the date of the service of this Final Order as provided in the certificate of service below.

5. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
6. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13)
7. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and

8. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 12TH day of October 2006.



DENISE MOORE DAVIDSON, CHAIR
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 13TH day of October 2006:


ALVIN NOBLE
HWY 680
P.O. BOX 661
McDOWELL KY 41647-0661
Respondent

And by messenger mail to:

HON. STEPHEN C. BOYD
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212
Counsel for OMSL

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601


Bryan Alan Thompson
General Counsel
Mine Safety Review Commission